

defendants' allegations of discriminatory selection of the jurors. The court overruled defendants' second objection for two reasons. First, any references to defendants as Negroes were merely descriptive of the persons involved in the crime, and were not designed to inflame the minds of the jury and thus prejudice defendants. Second, defendants did not object to the references as they were made, but instead counted the number of times the reference was made and then registered the objection. The judgment was affirmed.

Two defendants who were convicted of attempted robbery sought reversal of their convictions on several grounds, including the allegation that the victim's reference to her assailants as "dirty niggers" during cross-examination at their trial constituted prejudicial error upon which a motion for a mistrial should have been granted.

While noting that such phrases are to be avoided and abhorred, the court found that this utterance was made without malice by the victim and only in her attempt to respond to counsel's inquiry; and therefore, that the trial judge did not abuse his discretion in denying a motion for a new trial. Defendants' convictions were affirmed. *Boone v. State*, 456 P.2d 418 (Nev., July 14, 1969).

Sentencing (Georgia, Texas)

The following cases rejected defendants' contentions that the death penalty for the crime of rape is cruel and unusual punishment which is used in a discriminatory manner against Negroes: *Jackson v. State*, 171 S.E.2d 501 (Ga., Dec. 4, 1969); *Branch v. State*, 447 S.W.2d 932 (Tex., Dec. 10, 1969).

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